



EPA Seeks Public Comment on Florida's Request to Administer a Clean Water Act Section 404 Program

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ATLANTA (September 25, 2020) – On August 20, 2020, the state of Florida submitted a request to the U.S. Environmental Protection Agency (EPA) to assume administration of a Clean Water Act (CWA) Section 404 program per the provisions of CWA Section 404(g) to regulate the discharge of dredged or fill material into waters within the jurisdiction of the state. In the 43 years since the CWA was amended to provide for state or tribal assumption, only two states have assumed administration of the CWA Section 404 program (Michigan and New Jersey). Florida is the first state or tribe to submit a request to administer the program since 1994.

As part of the review process, EPA began soliciting public review and comment regarding Florida's request to assume administration of a Section 404 program as well as consultation under Section 106 of the National Historic Preservation Act on September 16, 2020. All comments must be received on or before November 2, 2020. The EPA will also hold virtual public hearings on October 21 and 27, 2020, during which EPA will accept comments regarding Florida's request and regarding potential effects on historic properties pursuant to Section 106 of the National Historic Preservation Act.

Additionally, EPA is in the process of working with the applicable government agencies to implement the review process set forth by the CWA and its implementing regulations. . An assumed program must be consistent with and no less stringent than the requirements of the CWA and its implementing regulations. EPA intends to approve or disapprove the State of Florida's request to assume administration of a CWA Section 404 program by December 17, 2020.

Background

Section 404 of the CWA requires a permit before dredged or fill material may be discharged into waters of the United States. Section 404(g) of the CWA gives states and tribes the option of assuming, or taking over, the permitting responsibility and administration of the Section 404 permit program for certain waters. Section 404 permits for those assumed waters would be issued by the state or tribe instead of the U.S. Army Corps of Engineers (Corps). The CWA provides that the Corps retains permitting authority in certain tidal waters and other specified waters currently related to the transport of interstate or foreign commerce.

More information: [[HYPERLINK "https://www.epa.gov/cwa404g/basic-information-about-assumption-under-cwa-section-404"](https://www.epa.gov/cwa404g/basic-information-about-assumption-under-cwa-section-404)]



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